AUSA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Epifanio Martinez-Hernandez** Defendant.	Magistrate Case No. '08 MJ 0861 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326; Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **March 3, 2008,** within the Southern District of California, defendant, **Epifanio Martinez-Hernandez**, an alien who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States without the Attorney General of the United States, or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States, in violation of Title 8, United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Deportation Officer
Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **19th** DAY OF **March, 2008.**

UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
NAME: Martinez-Hernandez, Epifanio

PROBABLE CAUSE STATEMENT

On Monday, March 3, 2008, the United States Border Patrol apprehended the defendant, Epifanio Martinez-Hernandez, for Illegal Entry into the Unites States. The defendant was subsequently booked into County Jail for violation of parole, and the Border Patrol placed a detainer on Form I-247. On March 18 2008, at approximately 9:30 a.m., the defendant was referred to the custody of United States Immigration and Customs Enforcement (ICE) at San Diego, Ca. A Deportation Officer reviewed various sources of information and conducted official record checks in regards to the defendant. These checks confirmed the defendant to be a citizen of Mexico having been previously deported or removed from the United States.

A thorough review of official immigration computer database record checks and information contained in the Alien Registration file revealed that the defendant was most recently ordered removed or deported from the United States by an Immigration Judge on May 12, 2005; and removed to Mexico the same day via the San Ysidro, California Port of Entry. Record checks further indicate that the defendant has not applied to the Attorney General of the United States or the Secretary of the Department of Homeland Security for permission to re-enter the United States.

The defendant was advised of his of his Miranda rights and agreed to answer questions without counsel present. The defendant stated his true name is Epifanio Martinez-Hernandez. He stated he is a citizen of Mexico by birth in San Juan, Queretaro, Mexico. The defendant admitted he has no documents to enter or reside in the United States lawfully and knew it was against the law to enter illegally after having been deported. The defendant stated he has not applied for a waiver of deportation or removal.

The Automated Biometric Fingerprint Identification System (IDENT) was utilized and compared the defendant's fingerprints to those contained in this database. The results confirmed his identity as Epifanio Martinez-Hernandez, a citizen and national of Mexico. A photograph and a set of fingerprints contained within the official Alien Registration File were also reviewed and compared to the defendant, further confirming his identity.

All available information indicates that the defendant is a citizen of Mexico; was deported to Mexico pursuant to an order from an immigration judge, and is currently present in the United States in violation of law.

Based upon the foregoing information, there is probable cause to believe that Epifanio Martinez-Hernandez has illegally re-entered the United States after Deportation, in violation of Title 8 of the United States Code 1326, Deported Alien Found in the United States.